

MINUTES
CLAY COUNTY BOARD OF ADJUSTMENT
5:30 PM, TUESDAY, AUGUST 16, 2016
MEETING ROOM B, CLAY COUNTY COURTHOUSE

Members Present: Chair Amos Baer, Perry Bushaw, Greg Anderson, Pamela Harper

Members Absent: Paul Krabbenhoft

Others Present: Tim Magnusson, Colleen Eck, Jenny Samarzja, Rock Rude

On motion by Anderson, seconded by Bushaw, and unanimously carried, the Board approved the agenda as written.

On motion by Harper, seconded by Bushaw, and unanimously carried, the Board approved the minutes from May 17, 2016 as written.

RUDE LIVING TRUST/ROCK AND JENNIFER RUDE - REQUEST FOR VARIANCE

The applicants are seeking approval of a variance to allow a structure to be located closer to the centerline of an adjacent roadway than code allows. The Clay County Development Code currently requires a structure be set back a minimum of 125 feet from the centerline of a roadway. The affected property is a 75.62-acre parcel located in the E Half, SE Quarter, Section 30, T140N, R44W (Highland Grove Township), in the Agricultural General zoning district.

On motion by Anderson, seconded by Harper, and unanimously carried, the Board opened the public hearing.

Tim Magnusson, Planning Director, provided aerial views of the property with the house and a small garage with a lean-to on the backside. The applicant previously received a variance for the house. His current plans are to demo the old garage and construct a larger garage on the site. He is requesting a variance to place the garage at 49 feet from the center of the road because of all the trees on the property. From the applicant's proposed location, Magnusson suggested constructing five feet further east, at least as back further on the lot which would be 65 feet from the center of the road.

The applicant, Rock Rude, was present to answer any questions. A new garage would provide more space and improve the property. He is also looking for an area that he can easily back a trailer into. Currently, there is gravel leading up to the old garage, but he would put in a cement slab.

Attorney Samarzja noted that the request needs to meet the definition of a practical difficulty, and cannot just be for the sake of convenience or just for the sake of financial hardship. Magnusson noted that the garage should be set back the same distance as the house. Anderson added that there is a practical difficulty of maintaining enough space for a future septic system and minimizing impervious surface.

Excerpt from Land Development Ordinance:

"Practical difficulties," as used in connection with the granting of a variance, means:

- 1) that the property owner proposes to use the property in a reasonable manner not permitted by an official control;*
- 2) the plight of the landowner is due to circumstances unique to the property not created by the landowner;*
- 3) and the variance, if granted, will not alter the essential character of the locality*

Economic considerations alone do not constitute practical difficulties.

On motion by Anderson, seconded by Harper, and unanimously carried, the Board closed the public hearing.

On motion by Bushaw, seconded by Harper, and unanimously carried, the Board approved a variance to Rude Living Trust (Rock and Jennifer Rude) to allow a structure to be located as close as 65 feet (required minimum setback: 125 feet) from the centerline of the roadway on a parcel located in the E½ SE¼ Section 30, Highland Grove Twp. The variance was approved with the following criteria:

- 1) The proposed variance is in harmony with the general purpose of the zoning district and intent of the Development Code;**
- 2) The proposed variance constitutes a 48% reduction in the required setback;**
- 3) The circumstances related to this request may constitute a “practical difficulty” related to the location of other facilities on the lot (trees);**
- 4) The variance would not alter the essential character of the locality.**

On motion by Anderson, and seconded by Harper, the meeting was adjourned at 6:00 p.m.